REMARKS

Claims 1-10 are presented for examination. Claims 9 and 10 are found allowable subject to being rewritten in independent form.

Claims 1, 4-8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Naidu et al. in view of Widemant et al. Dependent claim 2 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Naidu et al. in view of Widemant et al and further in view of Jung et al. Dependent claim 3 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Naidu et al. in view of Widemant et al.

These rejections are respectfully traversed for the following reasons.

In the application of a rejection under 35 U.S.C. § 103, it is incumbent upon the Examiner to factually support a conclusion of obviousness. As stated in ***Graham v. John Deere Co.*** 383 U.S. 1, 13, 148 U.S.P.Q. 459, 465 (1966), obviousness under 35 U.S.C. § 103 must be determined by considering (1) the scope and content of the prior art; (2) ascertaining the differences between the prior art and the claims in issue; and (3) resolving the level of ordinary skill in the pertinent art.

As demonstrated below, the Examiner has failed to properly consider the scope and content of the prior art, and ascertain the differences between the prior art and the claims in issue.

In particular, independent claim 5 recites a transceiver for providing data communications over residential wiring, comprising:

- an output driver for supplying a transmit signal of a prescribed level to the residential wiring, and

- an output drive control system for comparing a DC level set at the output of the output driver with a predetermined threshold signal to control the output driver so as to maintain the transmit signal at the prescribed level.

The claim had been amended to specifically recite a twisted pair wiring.

Naidu discloses transporting signal over a hybrid fiber/coax cable in a distributed antenna network among remote antenna units (see column 1, lines 40-42). Wiedeman discloses establishing a wireless connection.

Accordingly, the references do not disclose a transceiver for providing data communications over residential twisted pair wiring, and cannot disclose the claimed elements of this transceivers such as:

- the claimed output driver for supplying a transmit signal of a prescribed level to the residential wiring, and

- the claimed output drive control system for comparing a DC level set at the output of the output driver with a predetermined threshold signal to control the output driver so as to maintain the transmit signal at the prescribed level.

Claim 1 recites a method of configuring a transceiver having an output driver for driving an output terminal to provide data transmission via residential wiring, the method comprising the steps of:

setting a DC level at the output terminal,

comparing a controlled value representing the DC level with a predetermined threshold level, and

controlling the output driver until the controlled value is equal to the threshold level.

Claim 1 has been amended to specifically recite the output terminal for supplying a transmit signal of a prescribed level to the residential twisted pair wiring.

As demonstrated above, the references do not disclose the transceiver having an output driver for driving an output terminal for supplying a transmit signal of a prescribed level to the residential twisted pair wiring, and cannot suggest the steps of setting a DC level at the output terminal of the transceiver, and controlling the output driver until the controlled value representing the DC level is equal to the threshold level.

It is well settled that the test for obviousness is what the combined teachings of the references would have suggested to those having ordinary skill in the art. ***Cable Electric Products, Inc. v. Genmark, Inc.***, 770 F.2d 1015, 226 USPQ 881 (Fed. Cir. 1985). In determining whether a case of prima facie obviousness exists, it is necessary to ascertain whether the prior art teachings appear to be sufficient to one of ordinary skill in the art to suggest making the claimed substitution or other modification. ***In re Lalu***, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1984).

As the combination of references is not sufficient to suggest the claimed arrangement and method, the rejection of claims 1, 4-8 under 35 U.S.C. § 103 as being unpatentable over Naidu et al. in view of Widemant et al. is improper and should be withdrawn. Dependent claims 2 and 3 are defined over the references at least for the reasons presented above in connection with independent claim 1.

In view of the foregoing, and in summary, claims 1-10 are considered to be in condition for allowance. Favorable reconsideration of this application is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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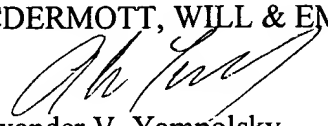

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